

REMARKS

Claims 1 and 4-9 are all the claims pending in the application. Claim 9 is withdrawn, and claim 1 is amended. The specification is also amended. Support for the amendments to the claim and the specification can be found throughout the original specification and originally filed claims.

Specifically, support for the claim 1 amendment can be found in at least page 3, lines 16-19, page 10, lines 8-9, page 11, lines 2-3 and Table 3 of the original specification and original claim 9.

The specification has been amended to clarify that the “facial mask” is a “facial film-forming mask.” Support for the claim 1 amendment can be found in at least page 1, lines 20-21 and page 4, lines 20-24 of the original specification.

Accordingly, no new matter has been introduced by these amendments to the claim and the specification.

A. Objection to the Specification

At page 2 of the Office Action, the amendment filed Dec. 18, 2008 is objected to under 35 U.S.C. § 132(a) because it introduces new matter. Specifically, the Examiner asserts that the added term “facial mask” is not supported by the original Specification filed. The Examiner further states that the term “skin care pack” itself does not indicate a “facial mask.”

Applicants respectfully disagree because the term “facial mask” is inherently disclosed in the original specification. The original specification clearly states, “[t]his pack forms a

temporary film on the face, to block air inflow and moisture evaporation.” Lines 20-21, page 1. Additionally, the original Specification also discloses, “[t]he pack may include ... applying the cosmetic composition on gauze or paper or permeable membrane such as non-woven fabric.” Page 4, line 25-page 5, line 1. Moreover, the Examiner explicitly admitted such inherency in the previous Office Action by arguing that a mask is intrinsically in a pack in rejecting claims in view of Breazu. Page 5, *Office Action of July 18, 2008*. Thus, one of ordinary skill in the art, including the Examiner herself, understands that a pack forming such a film on the face indicates a “facial mask” as recited in the Specification.

Nonetheless, solely to expedite the prosecution, Applicants have amended the Specification to clarify the “facial mask” is a “facial film-forming mask.” Accordingly, Applicants respectfully request that this objection to the specification be reconsidered and withdrawn.

B. Claim Rejections Under 35 U.S.C. § 112

Claims 1, 4-8 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Specifically, the Examiner asserts that the term “lumpy texture” is not present in the Specification and that there is no support for this limitation. The Examiner concludes that this term is a new matter.

In response, Applicants respectfully direct the Examiner’s attention to page 2, line 14, page 5, lines 10 and 21, page 6, line 1, page 8, line 3, page 9, lines 2 and 10, and page 10, line 1, all of which recite explicitly or support inherently the term, “lumpy texture.”

Accordingly, Applicants respectfully request that the above rejection under 35 U.S.C. § 112 be reconsidered and withdrawn.

C. Claim Rejections Under 35 U.S.C. § 103

1. Claim 1 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Gennadios (U.S. Patent No. 6,214,376) in view of Kitchencraftsnmore (<http://web.archive.org/web/20031208031644/http://kitchencraftsnmore.net/bath3.html>).

Applicants have amended claim 1 solely to expedite the prosecution. Applicants assert that the current amendment to claim 1 renders moot the above obviousness rejection because the combination of the cited arts fails to teach each and every element of the presently claimed invention. To establish a *prima facie* case obviousness the cited references must disclose all of the claim limitations. *In re Royka*, 490 F.2d 981, 984 (CCPA 1974).

Independent claim 1, as amended, recites that the claimed composition is “an oil-in-water emulsion-type composition in which the xanthan gum and the mannan are in the aqueous phase.” Applicants respectfully assert that the combination of the cited references fails to teach or suggest the oil-in-water emulsion-type as set forth in claim 1.

Specifically, Gennadios discloses mixing in the gum composition into plasticizer but is silent regarding any oil-in-water emulsion-type composition. Column 4, lines 45-60.

Kitchencraftsnmore discloses simply mixing in all ingredients and is silent regarding any oil-in-water emulsion-type composition.

Accordingly, Applicants respectfully assert that neither Gennadios or Kitchencraftsmore, alone or in combination, teach or suggest that the claimed composition is “an oil-in-water emulsion-type composition in which the xanthan gum and the mannan are in the aqueous phase” as recited in claim 1. Applicants respectfully request that the above rejection under 35 U.S.C. § 103 be reconsidered and withdrawn.

D. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number **202-775-7588**.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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